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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,746	05/20/2005	Judah Folkman	701039-055264	9640
50828	7590	06/15/2007		
DAVID S. RESNICK 100 SUMMER STREET NIXON PEABODY LLP BOSTON, MA 02110-2131			EXAMINER WOOD, AMANDA P	
			ART UNIT	PAPER NUMBER
			1657	
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			06/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/535,746	Applicant(s) FOLKMAN ET AL.	
	Examiner Amanda P. Wood	Art Unit 1657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-19, 22 and 30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1, 5-19, 22, 30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- I. Positive angiogenic regulators
- II. Negative angiogenic regulators
- III. Tumor suppressor genes
- IV. Forms of cancer
- V. Angiogenic diseases/disorders

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Art Unit: 1657

The claims are deemed to correspond to the species listed above in the following manner:

Group I: positive angiogenic regulators corresponds to those regulators found, for example, in claim 6.

Group II: negative angiogenic regulators corresponds to those regulators found, for example, in claim 7.

Group III: Tumor suppressor genes corresponds to those genes listed, for example, in claim 11.

Group IV: Forms of cancer corresponds to those different forms of cancer listed in claims 19 and 30, for example.

Group V: Angiogenic diseases/disorders corresponds to those diseases listed in claim 22.

The following claim(s) are generic: 1, 5, 8, 9, 10, and 12-18.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The species of Group I do not relate to a single general inventive concept because they lack a corresponding special technical feature among the members of the group (e.g., MMPs, which are zinc-dependent enzymes that can degrade the extracellular matrix are not related in any way to fibronectin, which is a glycoprotein that actually binds the extracellular matrix and is involved in wound healing). Because the species shown have various functions that do not necessarily relate to angiogenesis, it has been shown that they do not share a special technical feature with one another, and therefore, they do not relate to a single general inventive concept.

The species of Group II lack a special technical feature (e.g., tissue inhibitors of metalloproteinases TIMPs have been shown to have several different functions, including inhibition of active MMPs, pro-MMP activation, cell growth promotion, matrix binding, inhibition of angiogenesis and the induction of apoptosis, while thrombospondin-1 has been shown to have functions in several different biological processes, including angiogenesis, apoptosis, activation of TGF-beta, and immunogenic regulation). Because the species shown have various functions that do not necessarily relate to angiogenesis, it has been shown that they do not share a special technical feature with one another, and therefore, they do not relate to a single general inventive concept.

The species of Group III lack a special technical feature among the members of the group because the different members of the group have different functions and lead to different types of cancer, which may or may not be related to one another.

The species of Group IV lack a special technical feature among the members of the group because the different types of cancer can originate from different types of cells having different mutations from one another, the types are not necessarily susceptible to the same treatments as one another, and they are very different from one another in terms of survival time (i.e., the prognoses for survival differs greatly amongst the members of the group).

The species of Group IV lack a special technical feature among the members of the group because the various diseases listed in claim have different biological origins, forms of treatment, and prognoses.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda P. Wood whose telephone number is (571) 272-8141. The examiner can normally be reached on M-F 8:30AM -5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

APW
Examiner
Art Unit 1657

APW



CHRISTOPHER R. TATE
PRIMARY EXAMINER